

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

AMIN MOHAMMAD,

Petitioner,

v.

2:09 CV 11
(Maxwell)

LAFONSO HAYNES,

Respondent.

ORDER

On January 22, 2009, *pro se* Petitioner Amin Mohammad filed a Petition For Writ Of Habeas Corpus pursuant to 28 U.S.C. § 2241 asserting that the Bureau of Prisons had wrongfully denied his admittance into the Bureau's Residential Drug Abuse Treatment Program and, accordingly, denied him the possibility of early release.

The case was referred to United States Magistrate Judge John S. Kaull for initial review and report and recommendation in accordance with Rule 83.09 of the Local Rules of Prisoner Litigation Procedure.

After conducting an initial screening and review, United States Magistrate Judge John S. Kaull determined that summary dismissal was not warranted at that time and, by Order To Show Cause entered January 29, 2009, gave the Respondent thirty days in which to file a reply to the Petitioner's § 2241 Application.

On March 13, 2009, a Motion To Dismiss, Or, In The Alternative, Motion For Summary Judgment And Response To Order To Show Cause was filed by the Respondent. Additionally, a Memorandum In Response To Order To Show Cause And In Support Of Respondent's Motion To Dismiss And/Or Motion For Summary Judgment was filed herein, under seal, by the Respondent on March 16, 2009.

On April 2, 2009, the Petitioner filed a Response To Respondent's Memorandum And Motion To Dismiss.

On June 10, 2009, Magistrate Judge Kaull issued an Opinion/Report And Recommendation wherein he recommended that the Respondent's Motion To Dismiss be granted and that the Petitioner's § 2241 Petition be denied and dismissed with prejudice.

In his Opinion/Report And Recommendation, Magistrate Judge Kaull provided the parties with ten (10) days from the date they were served with a copy of said Opinion/Report And Recommendation in which to file objections thereto and advised the parties that a failure to timely file objections would result in the waiver of their right to appeal from a judgment of this Court based upon said Opinion/Report And Recommendation.

The Court's review of the docket in the above-styled civil action reveals that, to date, no objections to Magistrate Judge Kaull's June 10, 2009, Opinion/Report And Recommendation have been filed. Accordingly, it would appear that this matter is now ripe for review.

Upon consideration of Magistrate Judge Kaull's June 10, 2009, Opinion/Report and Recommendation, and having received no written objections thereto¹, it is

ORDERED that the Opinion/Report And Recommendation entered by United States Magistrate Judge John S. Kaull on June 10, 2009 (Docket No. 18), be, and the same is hereby, **ACCEPTED** in whole and this civil action be disposed of in accordance with the

¹The failure of a party to file an objection to a Report And Recommendation waives the party's right to appeal from a judgment of this Court based thereon and, additionally, relieves the Court of any obligation to conduct a *de novo* review of the issues presented. See Wells v. Shriners Hospital, 109 F.3d 198, 199-200 (4th Cir. 1997); Thomas v. Arn, 474 U.S. 140, 148-153 (1985).

recommendation of the Magistrate Judge. Accordingly, it is

ORDERED that the Respondent's Motion To Dismiss (Docket No. 11) be, and the same is hereby, **GRANTED**. It is further

ORDERED that the Petitioner's Petition For Writ Of Habeas Corpus pursuant to 28 U.S.C. § 2241 (Docket No. 1) be, and the same is hereby, **DENIED and DISMISSED with prejudice**.

It is further

ORDERED that the Clerk of Court shall enter judgment for the Respondent. It is further

ORDERED that, should the Petitioner desire to appeal the decision of this Court, written notice of appeal must be received by the Clerk of this Court within sixty (60) days from the date of the entry of the Judgment Order, pursuant to Rule 4 of the Federal Rules of Appellate Procedure. The \$5.00 filing fee for the notice of appeal and the \$450.00 docketing fee should also be submitted with the notice of appeal. In the alternative, at the time the notice of appeal is submitted, the Petitioner may, in accordance with the provisions of Rule 24(a) of the Federal Rules of Appellate Procedure, seek leave to proceed *in forma pauperis* from the United States Court Of Appeals For The Fourth Circuit. The Clerk of Court is directed to transmit a copy of this Order to the *pro se* Petitioner and to counsel of record in the above-styled civil action.

ENTER: November 25, 2009

/S/ Robert E. Maxwell
United States District Judge